

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Michael Weber
Filed : 28 December 2004
For : Method for Establishing a Default Connection in Network, and
Associated Source and Sink Devices
Examiner: Willow W. Noonan
Art Unit : 2446

AMENDED APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Amended Appeal Brief is responsive to the Office
communication dated 3 June 2009, objecting to the form of the Appeal Brief filed on
30 April 2009. This Amended Appeal Brief overcomes the objections of the Patent
Appeals Specialist.

CERTIFICATE OF TRANSMISSION

I hereby certify that this Brief is being electronically transmitted to Mail Stop Appeal Brief - Patents,
Commissioner for Patents, Alexandria, VA 22313, on

____16_June, 2009____
Date

____/Kathleen Lyles/_____
Kathleen Lyles

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Real Party in Interest

The real party in interest is the assignee of record:

Thomson Licensing S.A.
46 Quai A. LeGallo
F-92100 Boulogne-Billancourt
France

Related Appeals and Interferences

The Appellant assert that no other appeals or interferences are known to the Appellant, his legal representatives, or assignee, which will directly affect or be directly affected by, or have a bearing on, the decision of the Board in the pending appeal.

Status of Claims

Claims 1-16 have been canceled. Nevertheless, Claims 1, 2, 4, 7-13 and 15 have been rejected. Claims 17-30 have also been rejected. The Appellant hereby appeals from the rejection of Claims 17-30, as well as from the rejection of canceled Claims 1, 2, 4, 7-13, and 15. Appealed Claims 17-30, which have not been canceled and are still active, are set forth in the Claims Appendix. Canceled Claims 1, 2, 4, 7-13 and 15 are *not* set forth in the Claims Appendix.

As far as the Appellant is aware, all amendments to the Claims have been entered. No Claim has been allowed.

Status of Amendments

As far as the Appellant is aware, all amendments have been entered.

Summary of Claimed Subject Matter

The following is a recitation of independent Claims 17 and 25, with reference to the instant disclosure:

17. Sink device (Claim 1 as filed) for connection to a digital network (100, page 5, lines 23-24) comprising

means (102, page 5, line 26) for displaying a user interface (GUI, page 5, lines 11-12) for controlling a data source device (Claim 1 as filed) connected to the network;

means for controlling network resource allocation and for automatically establishing, upon selection of a function of the source by the user through the user interface (Claim 1 as filed), a connection between the data source device and the data sink device (Claim 1 as filed), said data sink device becoming the default destination device for communication with the data source device (Claim 1 as filed); and

said sink device including means for performing playback of data received from the source device (Claim 1 as filed).

25. Method for establishing a data stream connection in a digital network comprising a source device and a sink device (Claim 10 as filed), said method comprising the steps of:

executing a user interface on the sink device (210, 211, Figure 2, page 6, line 6, Claim 10 as filed, page 11, lines 10-18);

selecting a function of the source device through the user interface (Claim 10 as filed, page 11, lines 10-18);

automatically establishing a connection for data transmission from the source device to the sink device (Claim 10 as filed, page 11, lines 10-18) upon selection of a function of said source device by a user (Claim 10 as filed, page 11, lines 10-18), said sink device becoming the default destination device for communication with the source device (Claim 10 as filed, page 11, lines 10-18);

said sink device performing playback of data received from the source device (Claim 10 as filed, page 11, lines 10-18).

Grounds of Rejection to be Reviewed on Appeal

1. Whether canceled Claims 1, 2, 4, 7-13 and 15 are properly subject to any type of rejection.
2. Whether Claims 17-30 are patentable under 35 USC 103(a) over an IEEE article of Lea et al, *Networking Home Entertainment Devices with HAVi*, published September 2000, in view of US 6,169,725 to Gibbs et al

Argument

Propriety of Rejection of Claims 1, 2, 4, 7-13 and 15

The Appellant submits that, as a matter of law, the Examiner's rejection of canceled Claims 1, 2, 4, 7-13 and 15 is improper and should be reversed. Canceled claims are not properly before the Examiner for consideration.

Patentability of Claims 17-30 Under 35 USC 103(a)

This invention simplifies the selection by a user of a data source which supplies data to be played. The invention automatically establishes a connection from a source device to the data sink device from which the user has selected the source, so that the data sink device becomes the default destination device for communication with the data source device. In this way, the user does not have to select a data sink device, unless he desires that the selected data be played on some other data sink device.

The Examiner has admitted that Lea et al does not teach automatically establishing a connection between the data source device and a data sink device. The Examiner looks to Gibbs et al to supply this teaching. The Appellant can not agree.

Nowhere does Gibbs et al. show or suggest:

“sink device for connection to a digital network comprising means for displaying a user interface for controlling a data source device connected to the network;

means for controlling network resource allocation and for automatically establishing, upon selection of a function of the source by the user through the user interface, a connection between the data source device and the data sink device, said data sink device becoming the default destination device for communication with the data source device”,

as specifically recited in Claim 17. Rather, Gibbs et al disclose, in column 5, lines 38-40, that an appliance automatically configures itself and integrates into the network without user intervention. However, Gibbs et

al does not automatically select a data sink device from which a data source has been selected. The user must perform such selection. In Gibbs et al., the appliance automatically configures itself. Nowhere does Gibbs et al. describe or suggest that the data sink device becomes the default destination device for communication with the data source device. It is therefore clear that even if the structure of Lea et al were to be combined with the structure of Gibbs et al, the patentability of the invention as defined by Claim 1 would not be affected.

Claims 18-24 are dependent from Claim 17 and added further advantageous features. The Appellant submits that these subclaims are patentable as their parent Claim 17.

Claim 25 is similar to Claim 17 in reciting:

“executing a user interface on the sink device;
selecting a function of the source device through the user interface;
automatically establishing a connection for data transmission from
the source device to the sink device upon selection of a function of said
source device by a user, said sink device becoming the default destination
device for communication with the source device”,

as specifically set forth in Claim 25. As discussed above, neither Lea et al nor Gibbs et al shows or suggests this feature. It is therefore clear that the cited references do not affect the patentability of Claim 25.

Claims 26-30 are dependent from Claim 25 and added further advantageous features. The Appellant submits that these subclaims are patentable as their parent Claim 25.

Conclusion

The Appellant therefore submits that the rejection of Claims 1, 2, 4, 7-13, 15 and 17-30 should be reversed. A notice to that effect is respectfully solicited.

Respectfully submitted,
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Date: _16__June 2009

CLAIMS APPENDIX

17. Sink device for connection to a digital network comprising means for displaying a user interface for controlling a data source device connected to the network;
means for controlling network resource allocation and for automatically establishing, upon selection of a function of the source by the user through the user interface, a connection between the data source device and the data sink device, said data sink device becoming the default destination device for communication with the data source device;
and
said sink device including means for performing playback of data received from the source device.
18. Sink device according to claim 17, wherein the connection to said digital network is an isochronous transmission connection comprising allocation of a channel and of bandwidth.
19. Sink device according to claim 17, wherein the controlling means of the sink device includes means for checking for an existing connection from the source device to another sink device, and in the affirmative, for refraining from automatically establishing a connection between the data source device and the data sink device.
20. Sink device according to claim 17, wherein said function is a playback function.
21. Sink device according to claim 20, wherein said sink device comprises means for generating controls for starting and stopping reading from storage means of the source device.

22. Sink device according to claim 17, wherein said function is a selection function of the source device.

23. Sink device according to claim 17, further comprising memory for storing software downloaded from the source device, wherein said software is adapted to control the automatic establishment of the connection between the source device and the sink device and wherein said user interface is derived from said software.

24. Sink device according to claim 23, wherein said software is a HAVi Havlet and the network is a HAVi network.

25. Method for establishing a data stream connection in a digital network comprising a source device and a sink device, said method comprising the steps of:

executing a user interface on the sink device;

selecting a function of the source device through the user interface;

automatically establishing a connection for data transmission from the source device to the sink device upon selection of a function of said source device by a user, said sink device becoming the default destination device for communication with the source device;

said sink device performing playback of data received from the source device.

26. Method according to claim 25, further comprising the step of deriving the user interface from software downloaded by the sink device from the source device.

27. Method according to claim 26, wherein the network is a HAVi network and the software is a HAVi Havlet.

28. Method according to claim 26, wherein the downloaded software controls the establishment of the connection.

29. Method according to claim 25, further comprising the step, prior to establishing the connection, of verifying the existence of a preexistent connection between the source device and a further sink device, and establishing the connection only in the negative.

30. Method according to claim 25, wherein said function is a playback function, and said source device is a data storage device.

Evidence Appendix

The Appellant asserts that there is no evidence to be submitted in accordance with this section.

Related Proceedings Appendix

The Appellant asserts that there are no other proceedings related to this application.